

December 12, 1985

CONGRESSIONAL RECORD — HOUSE

H 11911

sive campaign to destroy Jewish culture—even more despicable and far-reaching than previous efforts—has landed seven Jewish activists and Hebrew teachers in Soviet jails and labor camps since September 1984. These "Prisoners of Conscience," who have joined many other Soviet Jews in the gulag, have first been victimized by a hostile and cruel state administration and an utterly warped judicial system, and then by a barbaric penal system. In one case, that of Hebrew teacher Yosef Berenshtein, inmates incarcerated with him recently beat and virtually blinded him, while his guards did nothing.

For those Jews who seek to leave the U.S.S.R., the Soviets have deliberately made every step in the emigration process extremely difficult. Instant dismissal from work and loss of other privileges is common. Nevertheless, some 350,000 Jews are estimated to have begun the emigration process. Of that number, more than 15,000 have had their requests denied by Soviet authorities. About 1,000 of these "refuseniks" have been waiting more than 5 years to leave.

Now the statistics I have referred to are gravely disconcerting. The incident I have described, but one example of Soviet maltreatment, is harrowing. Imagine if you can the impact such circumstances have on the over 2 million Jews who live in the Soviet Union today.

Just this past October, I traveled to the U.S.S.R. as part of a House delegation on space cooperation. We toured some of the Soviet's most advanced laboratories and space facilities, and met with senior officials there to explore the possibility of another joint United States-Soviet space mission—a followup to the 1975 Apollo-Soyuz mission.

But while there, I also took the opportunity to arrange secret meetings with Soviet Jews. Calling from phone booths in subway stations, I made arrangements to meet with some of the many long-term refuseniks, individuals who in some cases have been waiting over 10 years to leave. Among those I visited were Vladimir and Maria Slepak, Vladimir Prestin, Elena Dubenskaya, Arkady Mai, Helen Seidel, Ludmila Volvovsky, Aleksandr Lerner, Victor Brailovsky, and many others.

While no two told the same story, each recounted a tragic and frightening series of events. Vladimir Slepak spoke in somber yet high tones of his exile to Siberia—"near the place where was born Genghis Khan," as he put it—for unfurling a banner from the balcony of his apartment demanding freedom. Arkady Mai and Helen Seidel spoke of the frequent visits and threats by KGB agents, who harassed the seminars on Judaism that they ran. Ludmila Volvovsky, her voice cracking as she spoke, told one of the most touching and tragic stories I have heard, about her husband Leonid who, as we talked, was awaiting trial on

charges of "anti-Soviet agitation and propaganda." The true reason for his persecution, she explained, was that he taught Hebrew in the city of Gorky. She had traveled hundreds of miles from Gorky, in fact, to inform me of his situation and give me a letter about him to deliver to President Reagan, which I did on my return. When the meeting ended after 11 p.m. that night, she wrapped herself warmly for the night-long train ride back to Gorky. Not long after my departure from Moscow, Leonid Volvovsky was found guilty and sentenced to 3 years in prison.

Contrasting starkly with the discussions I had with Soviet Jews were those I participated in with Soviet officials as part of our delegation's activities. Our talks included a nearly 3-hour session with Andrei Gromyko. These conversations, held in the unbelievable gilded opulence of the Kremlin palace, demonstrated quite clearly how the "classless society" is truly governed. As might be supposed, the Soviets' responses to our points on the gamut of human rights issues in the U.S.S.R. during these meetings was characterized by the same kind of duplicity and cynicism that we saw in their government-to-people relations.

Mr. Speaker, among the items that went with me on my trip was a videotape camera. With it, I recorded many of my conversations with Jews in the Soviet Union. Fortunately, these tapes were extricated from the U.S.S.R. safely. They are important for a number of reasons. First, they add faced to the names—warmth, tragedy, and bitterness to the stories. Second, they serve to document the severity of the persecution that these fine people have experienced. Finally, and most importantly, they reinforce the hope of those in the U.S.S.R. who seek to leave, by helping to ensure that their plight is not forgotten.

We must continue to keep the cause of Soviet Jewry before us in the days ahead, through such measures as the congressional call, through our diplomatic exchanges with Soviet officials, and through support for community involvement. The Soviets must know that we will never let them sweep this issue under the carpet. And that we will do our part to maintain the sense of hope that I found in all of the refuseniks with whom I met. With the possibility of improved United States-Soviet relations looming before us in the wake of the recent summit, we must take advantage of every opportunity to improve the situation of Soviet Jewry in the days ahead.

SUBSTITUTE FOR EMPLOYEE POLYGRAPH PROTECTION ACT OF 1985 WILL BE OFFERED

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, the polygraph—commonly known as the lie detector—can be a valuable tool for businesses in the hiring of personnel for positions of trust. Unfortunately, its potential can be abused to the detriment of an individual's right to privacy.

Today, I will be offering a substitute to H.R. 1524, the Employee Polygraph Protection Act of 1985, to help our States protect the rights of the person taking the polygraph examination while also assuring businesses the right to use the polygraph in a constructive way. This substitute would set minimum standards for polygraph testing and encourage the States to establish their own polygraph oversight programs.

Unfortunately, abuses of the polygraph have taken place. But, unlike other legislation which has been offered, this substitute would not permit those abuses to become the rationale for a veritable ban on polygraph use in the private sector.

I urge my colleagues to consider the many benefits of polygraph examinations to the business community and to vote for this substitute.

PRESIDENT REAGAN HAS BECOME ONE OF LONELIEST MEN IN WASHINGTON

(Mr. RUSSO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSSO. Mr. Speaker, yesterday, President Reagan became one of the loneliest men in Washington.

In 1981, when the President supported a tax bill that bestowed lavish benefits on wealthy individuals in this country and the most profitable corporations in this country, every Republican wanted to be his friend. They wanted his picture in their newsletters and they wanted Air Force One on their runways; but yesterday when the President threw his weight behind the cause of tax reform that would have provided middle-income and working people with real tax reductions, a chance to help small business, while taking 6 million of the poor off the Federal income tax rolls, and a chance to approve a strong minimum tax that would ensure that every individual and every corporation in this country pay their fair share of taxes, he became a solitary warrior leading a thinning army.

Only 14—only 14 of 182 Republicans were even willing to debate these issues on the floor of the House.

So, Mr. Speaker, I take this opportunity to urge my Republican colleagues to reconsider yesterday's vote. Tax reform is too important an issue to be left buried in the pages of the CONGRESSIONAL RECORD. It needs and deserves everyone's support.

H 11912

CONGRESSIONAL RECORD — HOUSE

December 12, 1985

A MORE FAIR COMMITTEE REPRESENTATION

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, despite the eloquent pleas of my friends on the Democratic side of the aisle who suddenly have seen the righteousness of President Reagan's election and reelection, there are some facts that should be brought to bear on this discussion.

One of the major reasons those of us who oppose, and oppose vigorously, the will that was brought forward by the Ways and Means Committee goes back to the institutional problems of this House. The Ways the Means Committee does not represent, percentage-wise, this House of Representatives. The representation there, almost 2 to 1 Democrat to Republican, does not represent the percentages in this House.

I suppose we are to think that those who granted us this wonderful representation will at the time that we go to conference make sure that Republicans are properly represented so that we can make those changes in the bill which we have been told by Democrats that they recognize the President wants.

Well, Mr. Speaker, I recall last year working for a month on the immigration bill to try to work out the differences, and I can tell you that the representation from the House was not reflective of the attitudes of the House of Representatives.

There are some institutional problems here that have come back late this year to cause us problems with tax reform that many of us have been committed to for a long period of time.

So let us not stand up here self-righteously and say, "Republicans, trust us. We have done good for you in the past. All you have to do is wait until we get into conference and we will assure that your voices will be heard."

We have heard that song before, Mr. Speaker. We, unfortunately, do not wish to dance to it again.

HIDING BEHIND THE RULE ON TAX REFORM

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. I thank the Speaker for this opportunity, especially to direct myself to the problems that we have with this institution. If there is a problem, it is that it allows Members to seek comfort behind the rule, a procedural rule, when they seek not to deal with a piece of legislation substantively.

How dare anyone refer to the composition of a committee and indicate that they never had an opportunity to participate, when we have a record in

the Ways and Means room to show that every substantial task force not only had Republicans on it, but had Republicans participating.

I am not saying that the leader of the Republican Party and the President of the United States should be able to pick up the phone and promise a Member of Congress some goody back home to get his vote. You have been elected here to do what you think is in the best interests of your constituents and the people of the United States. But how dare people go to the press and complain that they did not like the rule? The rule is merely a procedure to give the Members of the House of Representatives an opportunity to vote yes or to vote no. If you do not like what the gentleman from Illinois [Mr. ROSTENKOWSKI] and the Republicans and the Democrats and the Ways and Means Committee have done, do not vote for it.

But why, for God's sake, will you turn your backs on the Republican alternative? Is not the gentleman from Tennessee [Mr. DUNCAN], the ranking member, someone that is in communication with your party? Do you have to go to the Hill for direction as to what you want to do in tax reform?

What you have done is not killed the Democratic bill, but you have killed the opportunity for Members of the House of Representatives to vote up or down, Democrat or Republican, but most importantly, to vote for the right thing and that is equity and fairness in our tax system.

DRINKING AGE IS A PREROGATIVE OF THE STATES

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, shortly we will have to pass a continuing resolution to keep the Government running, but I want to put on record my objection to the inclusion of language mandating a nationwide 21-year-old drinking age.

Determining appropriate ages for drinking is traditionally a prerogative of each of the 50 States.

Let us give this issue the full consideration it deserves in the appropriate authorizing committee and in the full House of Representatives. Let us give this issue the consideration it really deserves. That is the least we can do before violating a traditional right of each of our 50 States.

RECONSIDER VOTE ON TAX REFORM

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, I hope that those of our colleagues who yesterday voted to block even the consid-

eration of tax reform will reconsider that action. No one ever said that tax reform would be an easy subject to address in this institution for many of us. There are none of us who are immune from enormous special interest pressure. There are none of us who view the vote on tax reform as an easy vote.

But likewise, I do not think there is anyone in this body who will pretend that the present tax system is fair, that it is enhancing the confidence of the American people in our political system.

It is also abundantly clear that the Ways and Means Committee bill, whatever its imperfections, represents a vast improvement over the present system. It does, in fact, provide significant tax reductions for middle-income Americans. It provides tax relief for those corporations in America that pay enormously high effective tax rates. It removes from the tax rolls million of our poorest working Americans. And it provides a tough minimum tax on corporations and wealthy individuals, so that all Americans will for the first time begin to pay their fair share of the tax load.

Please, let us understand the urgency of this question for America. What is at stake here is not only the tax system, it is indeed the credibility and institutional effectiveness of this body. I urge my colleagues to permit the debate on tax reform to go forward.

□ 1115

TAX REFORM

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I think it is interesting to hear tax reform referred to as being better than the present system and we ought to allow the process to go forward.

The bill we are being asked to consider on the floor gives benefits to 300 millionaires, including the Gallo wine family to the tune of \$80 million.

The bill we are being asked to consider on the floor that helps working Americans makes unemployment compensation fully taxable. What does that say to the people out there who are suffering the pains of unemployment in this country?

The bill that we are asked to consider on the floor has all kinds of special interest garbage in it, provisions that were put in simply to get people to vote for this particular bill. That is the only way they could sell it on the House floor.

This is not a bill that is reform, this is a bill that is deform. To bring this bill to this House and ask it to be considered, I think, is an act of injustice to millions of Americans who are going to pay higher taxes. As a result of the provisions in this bill, in 1986, most Americans will pay higher taxes because they do not put in the tax

file: Polygraph

H 11950

CONGRESSIONAL RECORD — HOUSE

December 12, 1985

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the majority leader, it is my understanding the majority leader was prepared to make several unanimous-consent requests relative to the bringing up of conference reports on Monday and waiving points of order.

On the continuing resolution, I would rather delay giving unanimous consent to waiving points of order on the continuing resolution until the gentleman from Massachusetts and the gentleman from Mississippi have an opportunity to discuss an item that we did last year in this same kind of process. If there is that general accord and agreement, we can agree to that unanimous-consent request.

AUTHORIZING THE SPEAKER TO DECLARE
RECESSES AT ANYTIME ON MONDAY NEXT

Mr. WRIGHT. If the gentleman will yield, Mr. Speaker, I ask unanimous consent that it may be order for the Speaker to declare recesses at any time on the legislative day Monday, December 16, 1985, subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WRIGHT. May I inquire of the gentleman further, with respect to other unanimous consent requests that may be useful, would the gentleman have an objection to a unanimous-consent request waiving points of order with specific reference to the Deficit Reduction Amendments of 1985 or the Food Security Act of 1985?

Mr. MICHEL. I would inquire of the gentleman, is that reconciliation?

Mr. WRIGHT. The reconciliation bill or the farm bill.

Mr. MICHEL. I cannot give the gentleman unanimous-consent request on reconciliation at this time. I was hoping that Mr. MADIGAN would be available to make sure that we could be all right on waiving points of order on the farm bill.

REQUEST FOR CONSIDERATION OF SUNDRY RULES
ON MONDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that rules reported by the Rules Committee, if necessary, regarding the continuing resolution appropriations and the Food Security Act of 1985 and the Deficit Reduction Amendments of 1985 may be considered on the same day if reported by the Rules Committee on Monday next.

□ 1650

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, particularly on reconciliation, I have got to see that reconciliation act before agreeing to that unanimous-consent request.

Mr. WRIGHT. May I ask unanimous consent, then, Mr. Speaker, that any rules reported by the Rules Committee with respect to the Continuing Appropriations Act of 1986 or the Food Security Act of 1985, the so-called

farm bill, if reported on Monday next, December 16, may be considered by the House on the same day? I am asking that the rule may be considered by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. CONTE. Reserving the right to object, Mr. Speaker, the thing I am concerned about on the appropriation bill is that you can go to the bill and make certain amendments in order that would not be germane and we would not have an opportunity to raise an objection. I would like to have a little more time to talk with my committee chairman about where we are going to go and reach some kind of an agreement with him.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, the gentleman and I have reached agreement in the past. I would be glad to discuss with him the situation on this. I would like to have a little more time, too, to just see what it means.

Mr. CONTE. All right. Then I object, Mr. Speaker.

The SPEAKER. The gentleman objects?

Mr. CONTE. At this time, yes, Mr. Speaker.

The SPEAKER. Objection is heard.
REQUEST TO WAIVE 3-DAY RULE FOR CONSIDERATION OF CONFERENCE REPORT ON THE FOOD SECURITY ACT OF 1985 ON MONDAY NEXT

Mr. WRIGHT. Mr. Speaker, would the gentleman consider this unanimous-consent request: Mr. Speaker, I ask unanimous consent to waive the 3-day rule on the Food Security Act of 1985 with respect to the conference report or any rule that may be reported with respect to that bill on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, I would hope that the majority leader would withhold that until I get hold of my ranking minority member to make sure that everything is on the square.

Mr. WRIGHT. Mr. Speaker, I withdraw the unanimous-consent request at this time.

The SPEAKER. The gentleman withdraws his request.

PROVIDING FOR CONSIDERATION OF H.R. 1524, POLYGRAPH PROTECTION ACT OF 1985

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 337 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 337

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the

Union for the consideration of the bill (H.R. 1524) to prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments there to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLLEN] for the purpose of debate only, and pending that I yield myself such time as I may use.

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, House Resolution 337 is an open rule that provides for the consideration of the bill H.R. 1524, the Polygraph Protection Act of 1985.

Mr. Speaker, the rule provides 1 hour of general debate, to be equally divided between the chairman and ranking minority member of the Committee on Education and Labor.

House Resolution 337 also makes in order an Education and Labor Committee amendment in the nature of a substitute now printed in the bill as original text for the purpose of amendment. The substitute is to be considered by section, with each section to be considered as read. In addition, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

H.R. 1524, the Employee Polygraph Protection Act of 1985, is a bill that would prohibit private employers involved in interstate commerce from requiring their employees, or their prospective employees from submitting to polygraph tests. This legislation is intended to protect workers who are wrongfully denied employment and whose careers are devastated because of lie detector test inaccuracies and employer abuses. The bill provides that employers who violate its provisions may be assessed a civil penalty of up to \$10,000.

December 12, 1985

CONGRESSIONAL RECORD — HOUSE

H 11949

decide what time we should come back on Monday.

Sunday is the last day of a holiday for the Jewish people. It is Hanukkah. And if it is required that we be here before 10 o'clock, 9 o'clock, or even 12 o'clock, it would be necessary for those of us who are on the west coast to travel the entire evening, and I would hope that the gentleman might consider postponing any votes until maybe 5:30 or 6 o'clock that afternoon, even though debate might take place earlier, to give us a chance to at least complete that evening.

Mr. WRIGHT. Well, let me respond, if I may, to the gentlewoman. I think all Members of the House should try to accommodate all other Members with respect to religious holidays when we can. Today is a part of Hanukkah, I am advised, and, of course, Members are having to travel today if they are away from their homes. I should think that noon Monday is probably a reasonable time so as to permit Members to be in their homes tonight and in their homes all day and through the evening Saturday and through Sunday. If we were to go beyond noon Monday, we probably could not finish Monday.

Ms. FIEDLER. I thank the gentleman.

FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 476) making further continuing appropriations for fiscal year 1986, and ask for its immediate consideration in the House, any rule of the House to the contrary notwithstanding, and that debate be limited to 1 hour, the time to be equally divided between myself and the gentleman from Massachusetts [Mr. CONTE], and that the previous question shall be considered as ordered on the resolution to final passage without intervening motion.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 476

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution of November 14, 1985 (Public Law 99-154) is hereby amended by striking out "December 12, 1985" and inserting in lieu thereof "six o'clock post meridian, eastern standard time, December 16, 1985".

The SPEAKER. The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

□ 1640

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, may I say that this resolution is necessary. All of us are anxious to get away from here and to conclude this year's work. Earlier, I considered introducing a resolution to extend the continuing resolution by only 1 day. Further consideration, however, showed a danger that we would not be able to complete the conference within that time. Although we have made good progress in the conference, there are two subgroups which still have much work to do. After all items have been resolved by the conferees, it will require 10 to 12 hours for the staff to prepare the paperwork before the conference report may be brought to the House.

So after reconsidering the matter, the House leadership felt the only way to be safe was to extend the time until Monday because it looks like it would take that much time to conclude. This does not prevent us from concluding earlier if it were possible. It merely extends the date until 6 p.m. Monday, December 16, so the Congress will not be responsible for any delay or any interruption of the Federal Government.

May I say further that I conferred with Mr. CONTE as soon as I knew the change in plans, and he and I have agreed about the resolution that we are considering.

May I say again that all this resolution does is continue the present rate of operations for agencies still covered by the existing resolution until Monday afternoon at 6 o'clock. In the meantime, we have to conclude two subconferences that we have. One is on Interior and another on Defense, which I am sure all of the Members want us to conclude and which we must conclude. This should allow ample time. I have asked the chairmen of the two subcommittees involved to speed up their subconferences as much as they can and get through as quickly as possible.

So if it is possible to get through earlier, I would say so. But it looks like it is not. We are doing as much as we can. May I say again what the majority leader said and that is that this, of course, has to be concurred in by the body on the other side tonight or else the authority to finance many agencies of Government will lapse.

So I urge the Members' support of this legislation.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the extension. We are making fairly good progress in the conference on the continuing resolution, but there is no way in the world that we can finish that conference today. As you know, the continuing resolution expires tonight.

The Defense Subcommittee and the Interior Subcommittee are still meeting, and they still have a great deal of work. There is no reason why we

should let the continuing resolution expire and create difficulties for the executive branch and see Federal employees being furloughed tomorrow.

I hope we can act quickly and that the Senate will do likewise so we can get back to work on the conference on the continuing resolution.

Mr. WHITTEN. Mr. Speaker, I would like to ask all the Members of the conference from the Appropriations Committee be available over the weekend to meet in conference. The conference is currently scheduled to reconvene at 7 o'clock tonight. With Interior and Defense particularly we are counting on staying here and concluding their work.

We hope the Members of the conference will stay available in case we have further meetings. I do not think there is any way for us to speed up what we planned, but in case we do, we will need the Members available to proceed with our business.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. CONTE. I would inquire of the gentleman, is the session with the full conference on the Senate side still scheduled for 7 o'clock tonight?

Mr. WHITTEN. The first business of the conference will be to agree with what we have done here. We meet again at 7 o'clock tonight to deal with what has happened, and several of the reports of the subconferences have not been approved by the full conference.

So it will pay for us to continue to be available over the weekend, if possible, so that we may conclude the conference.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON THE BILL, H.R. 3037, AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS, 1986

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill (H.R. 3037) making appropriations for Agriculture, Rural Development and Related Agencies for fiscal year ending September 30, 1986, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

December 12, 1985

CONGRESSIONAL RECORD — HOUSE

H 11951

Mr. Speaker, the bill does make exceptions for Federal and State government employees. It also exempts drug company employees who have direct access to controlled substances in connection with an official theft investigation. The bill provides an additional exception for employees related to CIA, FBI, and the National Security Agency. Because of the recent spy scandals, the Government is considering a requirement that all Government employees and contractors who have or want to obtain a high-level security clearance take a polygraph test.

Mr. Speaker, H.R. 1524 is an attempt to answer the complaint that lie detector tests are inaccurate in the hiring of workers, and would require employers to use more reliable ways to verify personnel information.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

(Mr. QUILLEN asked and was given permission to revise and extend his remarks.)

Mr. QUILLEN. Mr. Speaker, the rule has been ably explained. It is an open rule, but the bill is controversial. I received a number of wires and communications today in opposition to the measure.

Mr. Speaker, I oppose the measure on final passage, but I do not oppose the rule. I urge the adoption of the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. FISH].

(Mr. FISH asked and was given permission to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding me this time.

It is not my intention to take the full 5 minutes that was so generously offered, but I do rise to express my concerns over the Employee Polygraph Protection Act of 1985, which are both procedural and substantive.

On the procedural side, H.R. 1524 was reported out of the Education and Labor Committee only last week, on December 5, 1985. It received a rule late Tuesday night, and, until a couple of hours ago, was to be considered by the full House of Representatives.

H.R. 1524 was clearly drafted to insure that the House Judiciary Committee would not review any of its provisions. The Judiciary Committee, over the years, has held many hearings that attest to the accuracy and benefits of the use of the polygraph. However, the Judiciary Committee was short-circuited, and did not have any opportunity to improve the bill.

My substantive concerns are several in nature:

First, H.R. 1524 is drafted under the assumption that polygraphs are not a useful method to screen individuals for employment purposes or to help in the investigation of theft losses or breaches of security. Employers who rely on polygraphs as a screening tool are convinced of the validity of this device.

In fact, the Office of Technology Assessment found "meaningful scientific evidence of polygraph validity." H.R. 1524 is an emotional, rather than an objective, response to insuring that polygraphs are used in a way that is reasonable and not violative of civil rights and privacy concerns.

Second, H.R. 1524 is poorly drafted and could unintentionally thwart our efforts to combat terrorism and espionage.

I base this on the fact that the exemption language in section 6 is not broad enough. For example, while it appears on its face that DOD contractors are exempt, it is unclear whether personnel involved at securities research laboratories could be screened by a polygraph to insure their reliability.

One of the most serious defects in H.R. 1524 is the failure of section 6 to provide for an exemption for employees of commercial aviation and employees who have access to secure areas of airports. Airlines are responsible for the safety of passengers, cargo and aircraft.

Mr. Speaker, recent international and domestic incidents demonstrate the unique danger to air travel of terrorist and hijack attempts against commercial aviation. Just last July, Congress, in reaction to a lack of security at airports outside the United States, passed legislation specifically dealing with terrorism.

If offered, I will strongly support amendments that would permit the use of polygraphs to screen employees of commercial aviation and secure areas of airports if the duties of these individuals involve access to aircraft, either directly or indirectly through food services, maintenance, or baggage handling. I would also support any broadening of section 6 to include private security personnel.

Finally, I have serious concerns about the lack of a provision that would exempt Government contractors who are subject to the provisions of the Privacy Act. For example, there are a number of Government contractors who have access to highly sensitive information such as tax records, loan applications, and other credit information. These contractors routinely use polygraphs, in addition to other standard employee evaluation tools, to insure that their employees do not use such information in a fraudulent manner.

In conclusion, while there is considerable merit to H.R. 1524, it needs serious improvement. Hopefully, in the ensuing weeks and months, a reasonable compromise can be worked out to ensure that polygraphs will be used professionally and accurately while not jeopardizing legitimate uses of this device, especially in the area of combatting terrorism and espionage.

□ 1700

Mr. QUILLEN. Mr. Speaker, I have no further requests for time.

I urge adoption of the open rule, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a former district attorney, I am opposed to this bill in its present form; however, I want to commend the gentleman from Montana [Mr. WILLIAMS] for bringing the issue before this House which needs some serious debate and consideration.

I think it is very evident, Mr. Speaker, that polygraphs have been abused in many instances. I believe that polygraphs should be regulated and that minimum standards should be imposed.

Accordingly, Mr. Speaker, on this day the gentleman from Florida [Mr. Young] and I have introduced H.R. 3916 which will be offered when this matter comes to the floor, in the nature of a substitute.

Let me say that the bill in its present form, Mr. Speaker, to which I am adamantly opposed, would effectively do away with the use of all polygraphs as far as private industry is concerned.

Let me emphasize, there have been abuses in the past, Mr. Speaker, but I believe that an orderly regulation of this industry should be imposed and that is what my substitute, which this rule allows, will do.

Let me say in conclusion, Mr. Speaker, that while I disagree with the original bill, I heartily support this open rule and urge its passage by the House.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman.

As the people on both sides of this issue fully recognize now, this is a good rule. It is an open rule. It is the best that either side could hope for and it is not contentious.

Likewise, the bill has had a significant amount of support. It has gathered about 170 cosponsors on both sides of the aisle, because people believe that the growing number of polygraphs in the private sector needs to be stemmed. Both sides understand there are abuses. With this legislation we are simply trying to stem those abuses.

There are 2 million polygraph lie detector examinations a year given now in the United States and 98 percent of those are given by private business, far outstripping the amount given by government and criminal pursuits combined.

The number of tests given in this country has tripled in just the past 10 years. We are simply trying to stem the tide and bring some prudent reason to this.

H 11952

CONGRESSIONAL RECORD — HOUSE

December 12, 1985

By the way, 31 States and the District of Columbia have passed legislation affecting regulating the use of lie detectors; however, we found that this problem really needs some national attention and probably a Federal solution, because we find that the polygraph of regulations throughout the States is simply not adequate; so when this Congress returns after the first of the year, we will consider the Polygraph Protection Act, if this rule passes, as we expect it will, and at that time we will see if we cannot get both sides together to do what both sides agree needs to be done. We need to stem the increasing tide of the number of lie detector tests being given to private citizens in this country. We need to stem the abuses and I am convinced that this Congress is committed to do so.

I am including for the RECORD copies of letters concerning a critical section of this bill. The letters are from the Central Intelligence Agency, the Under Secretary of Defense and the chairman of the House Committee on Armed Services.

COMMITTEE ON ARMED SERVICES,
December 12, 1985.

HON. PAT WILLIAMS,
U.S. House of Representatives, Rayburn
House Office Building, Washington, DC.

DEAR PAT: I understand that H.R. 1524, the Employee Polygraph Protection Act of 1985, will soon be considered by the House.

This is to advise you that the Committee on Armed Services is supportive of the amendment you propose to offer to section 6(b) of this bill. That amendment would exempt consultants or employees of contractors of the Department of Defense from the provisions of the bill. We believe it is necessary that the bill provide a specific exemption for employees of contractors of the Department of Defense and for consultants of the department.

Sincerely,

LES ASPIN,
Chairman.

CENTRAL INTELLIGENCE AGENCY,
December 11, 1985.

HON. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and
Labor, House of Representatives, Wash-
ington, DC.

DEAR MR. CHAIRMAN: I am pleased to respond on behalf of the Central Intelligence Agency to your letter of December 4, 1985 concerning H.R. 1524.

The Agency's concern with this legislation has been the sufficiency of the exemption for employees of Agency contractors. We have reviewed the "Amendment in the Nature of a Substitute to Section 6(b) in H.R. 1524" which was enclosed with your letter. Assuming that this amendment were to be adopted, the Agency's concern would be alleviated and the Agency would have no objection to this legislation. Other agencies, however, may seek amendments to the exemption provisions to insure that polygraph examinations are not precluded for contractors and consultants employed by the Federal Government and having access to classified information.

Thank you for the opportunity to comment on this legislation.

The Office of Management and Budget has advised that there is no objection to the

submission of this report from the standpoint of the Administration's program.

Sincerely,

CHARLES A. BRIGGS,
Director, Office of Legislative Liaison.

THE UNDER SECRETARY OF DEFENSE,
December 11, 1985.

HON. AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and
Labor, Washington, DC.

DEAR MR. CHAIRMAN: Reference is made to your letter of December 4, 1985 in which you offer amendment language to House Resolution 1524.

We do indeed support the language of the amendment and interpose no objection to the Bill so long as agencies of the Federal government and persons contracting with the government are exempt from its provisions.

Sincerely,

FRED C. IKLE.

MR. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

(Mr. JONES of Oklahoma asked and was given permission to revise and extend his remarks.)

MR. JONES of Oklahoma. Mr. Speaker, I was unavoidably absent Monday, December 9, 1985, and missed recorded votes on the following four suspensions: House Concurrent Resolution 239, Ireland-United Kingdom Agreement; H.R. 1083, low-level radioactive waste disposal policy; H.R. 3773, Federal Technology Transfer Act; and H.R. 1538, veterans compensation and health care.

Had I been present, I would have voted "aye" on all four measures, and I am pleased to note that they all passed by overwhelming margins.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT AMENDMENTS IN SECTION 901

MR. UDALL. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3851) to amend section 901 of the Alaska National Interest Lands Conservation Act.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Arizona?

MR. SEIBERLING. Mr. Speaker, reserving the right to object, I would like to ask the distinguished chairman of the Committee on Interior and Insular Affairs if he would just briefly tell us what the bill does.

I yield to the gentleman from Arizona.

MR. UDALL. Mr. Speaker, H.R. 3851 is a bill introduced by our colleague, the gentleman from Alaska, [Mr. YOUNG] which would amend section 901(a) of the Alaska Lands Act.

Section 901(a) of the act establishes statutes of limitations applicable to judicial proceedings contesting certain determinations by the Department of the Interior that parcels of submerged lands in Alaska within areas being conveyed to Native corporations and groups under the Alaska Native Claims Settlement Act are beneath nonnavigable waters.

As the law stands now, if the land in question was conveyed to the native corporation or group after the enactment of the Alaska Lands Act—that is, after December 2, 1980—a court action challenging a BLM determination of nonnavigability must be brought within 5 years after the conveyance. This bill before us would change that to 6 years; in other words, it would be a 1-year extension of the deadline.

At this point, a very brief review of some relevant history may provide some perspective.

The question of treatment of submerged lands in Alaska has been a very vexatious one ever since the enactment of the Native Claims Settlement Act. The problem arises from the interaction of the Settlement Act with the Alaska Statehood Act.

The gist of the problem is that under settled law, Alaska since its admission to the Union has been the owner of the lands under navigable waters in the State, with certain exceptions. However, the question of what waters are navigable is a legal one that only a court can answer for certain. Thus, as the Department of the Interior has proceeded with the transfers of land to Native corporations and groups under the Settlement Act, it has had to make decisions as to how to treat submerged lands, knowing that it stands open to being second guessed by a court.

In other words, BLM has had to decide whether to charge submerged lands inside Native selection areas against the Natives' entitlements, knowing that a court might later decide that those same lands had not been in Federal ownership since 1959, and thus that the Natives did not receive good title from the United States.

For the Natives, the unpleasant choice has been between accepting the BLM's decision, at risk of losing the submerged lands to the State, or contesting the BLM's decisions, with the consequent loss of time and money.

When we were debating the Alaska Lands Act here in the House, we attempted to resolve this by including in the House-passed Udall-Anderson bill a section which established a system similar to the procedures of the BLM Manual of Survey used in other States. Under the Udall-Anderson approach, BLM would have not charged against Native entitlements any submerged lands transferred to the Natives which were beneath lakes or streams above a certain size.